

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,	)	CASE NO. 8:06CR222
	)	
Plaintiff,	)	
	)	
vs.	)	TENTATIVE FINDINGS
	)	
MICHAEL R. ZANT,	)	
	)	
Defendant.	)	

The Court has received the Presentence Investigation Report ("PSR") and the Defendant's objections thereto (Filing No. 36). See Order on Sentencing Schedule, ¶ 6. The Court advises the parties that these Tentative Findings are issued with the understanding that, pursuant to *United States v. Booker*, 543 U.S. 220 (2005), the sentencing guidelines are advisory.

The Defendant "objects" to ¶¶ 52 and 88, arguing that the Defendant's criminal history category V is overstated. The "objections" are actually a motion for downward departure pursuant to U.S.S.G. § 4A1.3. Paragraph 2b of the plea agreement provides that "[b]y signing this agreement, you agree not to file any motion for downward departure for any reason." (Filing No. 32.) The objections, considered as a motion for downward departure, is denied.

IT IS ORDERED:

1. The Defendant's Objections to the Presentence Investigation Report (Filing No. 36), considered as a motion for downward departure, are denied;
2. The Court's tentative findings are that the Presentence Investigation Report is correct in all respects;

3. If **any** party wishes to challenge these tentative findings, the party shall immediately file in the court file and serve upon opposing counsel and the Court a motion challenging these tentative findings, supported by (a) such evidentiary materials as are required (giving due regard to the requirements of the local rules of practice respecting the submission of evidentiary materials), (b) a brief as to the law, and (c) if an evidentiary hearing is requested, a statement describing why an evidentiary hearing is necessary and an estimated length of time for the hearing;

4. Absent submission of the information required by paragraph 3 of this Order, my tentative findings may become final; and

5. Unless otherwise ordered, any motion challenging these tentative findings shall be resolved at sentencing.

DATED this 22<sup>nd</sup> day of December, 2006.

BY THE COURT:

S/ Laurie Smith Camp  
United States District Judge